Tinkercad Student Data Privacy Agreement

This Tinkercad Student Data Privacy Agreement ("DPA") is entered into on this __day of __, 201_, between Autodesk, Inc. ("Autodesk") and the educational institution that has signed this DPA (the "Educational Institution").

1. **DEFINITIONS.** For purposes of this DPA, the following terms have the meanings set forth below:

   "AB 1584" means the California Contracts with Third Parties for Digital Storage and Management of Pupil Records, California Education Code section 49073.1.

   "Account Holder" means an individual that is affiliated with an active Tinkercad account. This includes student accounts, as well as moderator accounts.

   "Administrative Contact" means the administrative contact for the Educational Institution identified below, or as updated by Educational Institution by written notice to Autodesk.

   "COPPA" means the Children's Online Privacy Protection Act, 15 U.S.C. § 6501-6505.

   "FERPA" means the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and its implementing regulations enacted at 34 C.F.R. Part 99.

   "Moderator" means, in connection with this DPA, a verified adult affiliated with and authorized by the Educational Institution to moderate a Student Account, as permitted by the Service.

   "Personally Identifiable Information" ("PII") has the same meaning as defined under FERPA at 34 C.F.R. § 99.3.

   "PPRA" means the Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h

   "Service" means Autodesk Tinkercad.

   "School Official" has the same meaning as under FERPA at 34 C.F.R. § 99.31(a)(1), and includes contractors, consultants, volunteers, or other parties to which an educational institution has outsourced institutional services or functions.

   "SOPIPA" means the Student Online Personal Information Protection Act, CA SB-1177.

   "Student" means a student enrolled at the Educational Institution using a Student Account.

"**Student Account**" means a Service account of a student enrolled at the Educational Institution under moderation by a Moderator.

"**Subprocessor[s]**" means a service provider of Autodesk, Inc. or its affiliates.

2. **RESPONSIBILITIES OF AUTODESK**

2.1.   Autodesk and Educational Institution acknowledge that Educational Institution must comply with FERPA and PPRA, among other applicable laws, and Autodesk agrees to conduct the Service consistent with the requirements of FERPA, COPPA, SOPIPA, PPRA, and AB 1584, among other applicable laws.

2.2.   Autodesk agrees that to the extent that Educational Institution is subject to FERPA and provides Autodesk with Student PII in connection with the Service, Autodesk will be considered a School Official.

2.3.   As between the parties, Autodesk acknowledges that the Educational Institution is the owner of Student PII provided by the Educational Institution through the Service.

2.4.   Autodesk will only collect, use, and otherwise process Student PII provided through the Service as described in this DPA and the Autodesk Privacy Statement, including the Autodesk Children's Privacy Statement, available at https://www.autodesk.com/company/legal-notices-trademarks/privacy-statement, which is incorporated into this DPA by reference.

2.5.   Autodesk will collect, use, and otherwise process the following PII data elements in connection with the Service: Student and Moderator's member or account username, password, date of birth, machine IP address or mobile device identifier; Moderator's name, email address, and phone number. Autodesk will not collect more information than is reasonably necessary in order to participate in the Service.

2.6.   Autodesk will not (i) use Student PII for any purposes not specified in this DPA, or not authorized by the parent/guardian or the Educational Institution, (ii) use Student PII for advertising or marketing purposes; (iii) use Student PII to amass a profile about a student except in furtherance of the Service; (iv) sell Student PII, or (v) disclose Student PII, unless permitted by law or upon approval of the Educational Institution.

2.7.   To the extent that Autodesk transfers any Student PII collected through the Service to Subprocessors, Autodesk agrees to have written agreements with said Subprocessors, so that data is processed in accordance with this DPA.

2.8.   Autodesk agrees that it will destroy Student PII provided through the Service within its possession, custody, or control (i) within ninety (90) days following the time that the Student Account is deleted, or (ii) if the Moderator is unable to delete the Student PII directly through the Service, within 90 days of the receipt of a written request for deletion from Moderator. Notwithstanding the foregoing, Autodesk shall be permitted to retain an archival copy of the Student PII as may be required or permitted by law.

3. RESPONSIBILITIES OF EDUCATIONAL INSTITUTION

3.1.   Educational Institution shall gather and/or provide consent in accordance with applicable law prior to Students' use of the Service.

3.2.   Educational Institution acknowledges that it is Educational Institution's sole responsibility to ensure that any Student PII it discloses to Autodesk or authorizes Autodesk to collect under this DPA is in compliance with all applicable laws and regulations, including but not limited to FERPA and the Protection of Pupil Rights Amendment, set forth in 20 U.S.C. § 1232h.

4. DATA SECURITY

4.1.   Autodesk agrees to protect and maintain Student PII with commercially reasonable security measures that include appropriate administrative, physical, and technical safeguards to secure Student PII from unauthorized access, disclosure, and use.

4.2.   Autodesk agrees to use best practices to secure usernames, passwords, and any other means of gaining access to the Service or Student PII, at a level suggested by Article 4.3 of NIST 800-63-3.

4.3.   When the Service is accessed using a supported web browser, Autodesk agrees to use Hyper Text Transfer Secure (HTTPS) technology, which uses both server authentication and data encryption to help keep Student PII secure.

4.4.   Autodesk agrees to maintain security protocols that meet industry best practices in the transfer or transmission of data related to the Service, including that data may only be viewed or accessed by parties authorized to do so.

4.5.   Autodesk agrees to provide periodic security training to employees who process Student PII, and require such employees to comply with applicable student privacy laws.

4.6.   Autodesk agrees to conduct periodic risk assessments of the Service.

4.7.   When hosting Student PII, Autodesk agrees to host data in an environment using a firewall that is periodically updated according to industry standards.

4.8.   Access, edit, and deletion of Student PII subject to this DPA, is available as a self-service feature through the Service's online moderation tool. All access, edit, and deletions must be completed by the Moderator. If a legal guardian would like to access or edit any Student PII subject to this DPA, they must route these requests to Moderator.

4.9.   Download of student generated content is available as a self-service feature.

4.10. If a legal guardian would like to create a new student account, they must route these requests to Moderator.

4.11. Autodesk agrees to comply with applicable laws that require the notification of individuals or government authorities in the event of unauthorized access to or disclosure of Student PII or other event requiring notification by law ("Notification Event"). In the event of a Notification Event, Autodesk agrees to notify Moderator(s) within 72 hours of identification of Notification Event and to provide reasonable assistance to Educational Institution to inform individuals or regulators if required by applicable law.

4.12. If Autodesk becomes compelled by law or regulation (including securities laws), subpoena, court order, or other administrative directive to disclose any Student PII, Autodesk will provide Moderator with prompt written notice, to the extent permitted by law, so that Educational Institution may seek an appropriate protective order or other remedy. If a remedy acceptable to Educational Institution is not obtained by the date that Autodesk must comply with the request, Autodesk will furnish only that portion of the Student PII that it is legally required to furnish, and Autodesk shall take reasonable steps to require the recipient of the Student PII to exercise commercially reasonable efforts to keep the Student PII confidential, to the extent permitted by law.
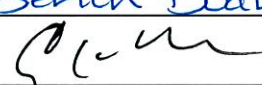
5. **MISCELLANEOUS**

   5.1.   **Term**. The term of this DPA shall commence on the date specified below and terminate in accordance with the terms of this DPA.

   5.2.   **Termination**. Either party may terminate this DPA upon 90 days prior written notice to the other party. Prior to the expiration of such 90-day period, Educational Institution or Moderator shall delete any Student PII provided by Educational Institution pursuant to this DPA that is required to be deleted under applicable law or the Educational Institution's policies. If Moderator is unable to delete any Student PII directly through the Service, Moderator should reach out to Autodesk for assistance.

5.3. **Changes to Terms.** To the maximum extent permitted by applicable law, Autodesk reserves the right from time to time to (and Educational Institution acknowledges that Autodesk may) modify this DPA as set forth in this Section. Autodesk will notify (the "Modification Notice") Educational Institution of the modification to this DPA (the "Modified Agreement"). If Educational Institution does not agree to the terms of the Modified Agreement, it may reject the modification by notifying Autodesk in writing of the rejection within 30 days of the Modification Notice. If Educational Institution rejects a modification under these circumstances, its access to and use of the Service will continue to be governed by this DPA in effect immediately before the modification until 90 days after the Modification Notice. Within such 90-day period, Educational Institution shall delete all Student PII. Use of the Service after such 90-day period shall be under the terms of the Modified Agreement. Notwithstanding the forgoing, modifications to the Privacy Statement will be handled as described therein.

5.4. **Priority of Agreements.** In the event there is conflict between the terms of this DPA and the Terms of Service for the Service, the terms of this DPA shall apply and take precedence.

5.5. **Notice.** All notices or other communication required or permitted to be given hereunder will be in writing and given by e-mail transmission sent to/from student.dpa@autodesk.com. Notifications to Educational Institution shall be provided via email to the Administrative Contact.

5.6. **Entire Agreement.** This DPA constitutes the entire agreement of the parties relating to the subject matter hereof and supersedes all prior communications, representations, or agreements, oral or written, by the parties relating thereto. Neither failure nor delay on the part of any party in exercising any right, power, or privilege hereunder shall operate as a waiver of such right, nor shall any single or partial exercise of any such right, power, or privilege preclude any further exercise thereof or the exercise of any other right, power, or privilege. Neither party shall assign this DPA or any right, interest, or benefit under this DPA, without the prior written consent of the other party, provided that Autodesk may assign or transfer this DPA to an affiliate or in connection with a merger, change of control, reorganization or sale or other disposition of the Service or assets related to the Service.

5.7. **Severability.** Any provision of this DPA that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this DPA, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Notwithstanding the foregoing, if such provision could be more narrowly drawn so as not to be prohibited or unenforceable in such jurisdiction while, at the same time, maintaining the intent of the parties, it shall, as to such

jurisdiction, be so narrowly drawn without invalidating the remaining provisions of this DPA or affecting the validity or enforceability of such provision in any other jurisdiction.

5.8.   **Governing Law; Venue and Jurisdiction**. THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO CONFLICTS OF LAW PRINCIPLES. NOTWITHSTANDING THE FOREGOING, IF THE EDUCATIONAL INSTITUTION IS LOCATED IN THE UNITED STATES AND THE LAWS OF THE U.S. STATE IN WHICH THE EDUCATIONAL INSTITUTION IS LOCATED REQUIRE SUCH STATE'S LAW TO GOVERN THIS DPA, THIS DPA WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF SUCH U.S. STATE. EACH PARTY CONSENTS AND SUBMITS TO THE SOLE AND EXCLUSIVE JURISDICTION TO THE STATE AND FEDERAL COURTS LOCATED IN MARIN COUNTY, CALIFORNIA FOR ANY DISPUTE ARISING OUT OF OR RELATING TO THIS DPA OR THE TRANSACTIONS CONTEMPLATED HEREBY, UNLESS SUCH CONSENT IS EXPRESSLY PROHIBITED BY THE LAWS OF THE U.S. STATE IN WHICH EDUCATIONAL INSTITUTION IS LOCATED.

This DPA must be signed by an authorized representative of Educational Institution and delivered to Autodesk at <u>student.dpa@autodesk.com</u>.

Name of Educational Institution: Berlin Board of Education

Authorized Signature: *[signature]*

Name and Title of Signatory: Dr. Erin McGurk, Asst. Superintendent

Administrative Contact Name: Jennifer O'Brien

Administrative Contact Phone: 860-828-6581

Administrative Contact Email Address: jobrien@berlinschools.org

Educational Institution Address: 238 Kensington Rd, Berlin, CT

Autodesk, Inc.

By: _____

Name: Matt Berggren

Title: Director Fusion360 Engineering